* IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ Bail Application No.1590/2007

% Date of Decision : 10th of August, 2007

\# LAXMI CHAND SHARMA &
ANOTHER .....Petitioners
! Through : Mr. R.N.Sharma, Adv.

versus

$
THE STATE(NCT OF DELHI .....Respondent
^ Through : Mr. Anil Soni, APP.
Mr. R.D.Sharma for
Complainant.

* CORAM:
HON'BLE MR.JUSTICE B.N.CHATURVEDI

1. Whether the Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporter or not? Yes

3. Whether the judgment should be reported in the Digest? Yes

: **B.N.CHATURVEDI, J.**

1. The petitioners, parents-in-law of the deceased, seek pre-arrest bail in a matter relating to

death of a bride taking place within three months of her marriage.

2. Smt.Indu, 24,was married to the co-accused son of the petitioners on 21st of April, 2007. She was allegedly subjected to ill-treatment and harassment by the petitioners and their co-accused in connection with a dowry demand to the tune of Rs.10 lacs, which the parents of the deceased were unable to satisfy.

3. On 4th of July, 2007, Smt. Jyoti, complainant sister-in-law (Bhabhi) of the deceased wanted to speak to the deceased on her mobile but could not succeed inspite of trying repeatedly. She, therefore, spoke to her husband, Surender, on his phone telling that she wanted to speak to the deceased. Co-accused Surender however, told her that as he was away from his house he would, on reaching the house, ask the deceased to talk to her. No phone call was however, received by her from the deceased or

her husband, whereupon she spoke to the petitioner No.1 when he told her that the deceased would be calling her back after a short while. But again there was no response from the other side. At about 4.00 p.m., the petitioner No.1, on being contacted again on phone, informed the complainant that the deceased had bolted the door of her room from inside and was not opening the same. He asked the complainant to send her husband to their house, whereupon Anand, brother of deceased, rushed to the petitioners' house and on reaching there, he found Indu hanging from the hook of a ceiling fan in her room. The petitioner No.1 informed the police regarding incident at about 5.45 p.m. The police, thereafter, reached the spot. Later, on learning about the incident the father of the deceased, accompanied by his elder brother, also reached the petitioners' house. The statements of father, uncle and brother(Anand) of the deceased were

recorded by the Executive Magistrate, Punjabi Bagh. In their statements none of the three made any allegation of ill-treatment and harassment to the deceased at the hands of the petitioners or their other family members, in connection with dowry demands. They rather stated that the deceased was being kept well by her husband and in-laws and that they were in no way responsible for her death. They further stated that it was rather the deceased who was herself responsible for her death. In view of statements of the father, uncle and brother of the deceased making no allegation of ill-treatment and harassment to the deceased in connection with any dowry demand or of any foulplay, no FIR was immediately registered. It was only on 7th of July, 2007, on Smt. Jyoti, the sister-in-law(Bhabhi) of the deceased making her statement before the same very Executive Magistrate, levelling allegations of

harassment and ill-treatment to the deceased by the petitioners and their co-accused for dowry demands that a case FIR No.561/07 under Sections 498-A/304-B/34 IPC was registered at PS Nangloi, Delhi.

4. The mother and younger brother of the deceased also got their statements recorded supporting the statements of deceased's sister-in-law(Bhabhi). Even the elder brother (Anand), whose statement had been recorded by the Executive Magistrate on 4th of July, 2007, in his supplementary statement changed his stance and made similar allegations as contained in the statements of his wife Smt.Jyoti, mother and brother, Navneet.

5. Learned counsel for the petitioners, heavily relying upon the statements of the father, uncle and elder brother(Anand) of the deceased, recorded by the Executive Magistrate on 4th of July, 2007, sought to contend that the statement of Smt.Jyoti, sister-in-

law(Bhabhi) of the deceased, on the basis of which the said FIR was registered, was nothing but an afterthought with a view to blackmail the petitioners. Referring to the statement of Smt.Jyoti, he pointed out that the marital relationship between the deceased and her husband, for reasons other than related to dowry demands, were somewhat strained inasmuch as both of them had not been sharing bed and were rather sleeping separately, which accounted for frustration on the part of the deceased and made her to take the extreme step of committing suicide.

6. The learned counsel for the petitioners, in support of his plea for anticipatory bail to the petitioners, placed his reliance on a decision of the Karnataka High Court in "R.L.Jalappa Vs. Delhi Police Establishment", IX-1989 (3) Crimes 113, and a Punjab & Haryana High Court decision in "State of

Punjab Vs. Satnam Singh", I (1997) DMC 637 (DB).

7. On behalf of the complainant, it was on the other hand, argued that the Executive Magistrate had not recorded the statements of the father, uncle and elder brother of the deceased correctly as he wanted to shield the petitioners and their co-accused. It was pointed out by the learned counsel for the complainant that the petitioner No.1 and the Executive Magistrate concerned happen to be business partners and it was on account of such relationship that the statements of said persons were not correctly recorded and that they were made to sign their respective statements without the same being read over to them.

8. In this connection, it is noteworthy that Anand, elder brother of the deceased, in his supplementary statement, told that he did not mention in his statement to the Executive Magistrate

on 4th of July, 2007 about any dowry demand and ill-treatment to the deceased by the petitioners and their co-accused as he did not want the same to come to the knowledge of his father since he happens to be a diabetic and heart patient. Thus, so far as Anand is concerned, he does not disown his statement as such made before the Executive Magistrate on 4th of July, 2007. From his statement as well as of his wife Smt.Jyoti, complainant, it appears as if the father of the deceased had no knowledge of the alleged dowry demand and ill-treatment to the deceased in connection therewith by the petitioners and their co-accused. If that be the position the father of the deceased could not have made any statement different from what he did before the Executive Magistrate on 4th of July, 2007. As far as allegation of business relationship between the Executive Magistrate and petitioner No.1 are

concerned, a complaint in that

regard is shown to have been made much after the registration of the said FIR. It may be noticed that on 7th of July, 2007 on Smt.Jyoti, sister-in-law(Bhabhi) of the deceased making her statement of accusation against the petitioners and their co-accused, the same very Executive Magistrate directed registration of the FIR in question.

9. Keeping apart rival contentions, there are certain aspects of the matter which need to be kept in view in finding if the petitioners would appear to be totally unconnected with the death of Smt.Indu. The post-mortem report on the dead body of Smt.Indu was conducted on 5th of July, 2007 at 10.30 a.m. The cause of death was opined to be combined effect of spinal shock and asphyxia as a result of pressure over throat structures produced by ligature and the

time since death was stated to be 22 hours. If the post-mortem report is to be accepted as correct, the approximate time of death of Smt.Indu would come around 12.00 noon on 4th of July, 2007. According to the FIR, based on the statement of Smt.Jyoti, it was at about 4.00 p.m. only when the petitioner No.1 informed her that the deceased had kept her room bolted from inside and was not opening the same. From the supplementary statement of Anand and his younger brother Navneet, it comes out that when they reached the petitioners' house and were taken to the deceased's room, they did not find the door of the room bolted from inside as the same opened on just being pushed a bit. Prima facie, thus the petitioners and their co-accused would have come to know of Smt.Indu being dead by hanging much prior to the deceased's brothers reaching their house. However, in spite of the incident being within their knowledge,

the information to the police in that regard was passed on at 5.45 p.m. only.

10. The photographs of the scene of crime where the deceased was found hanging would appear to show that her both the legs were resting on the floor. The height of the ceiling from the floor level is stated to be 7' 4'' only. The investigation being underway, it is for the investigating agency to find if it is really a case of suicide only.

11. Viewing the case in the light of the entire scenario, as noticed above, no case for pre-arrest bail is made out. Hench, the petition is dismissed.

12. Observations, if any, occurring herein reckon only a prima facie view.

(B.N.CHATURVEDI)
JUDGE

August 10, 2007
RS/